

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:21-cv-00213-MR-WCM

This matter is before the Court on Defendant's "Motion to Strike Plaintiff's Unauthorized 'Response to Defendant's Reply in Further Support of its Partial Motion to Dismiss Plaintiff's Complaint'" (the "Motion to Strike," Doc. 27).

On March 15, 2022, Defendant filed a Partial Motion to Dismiss Plaintiff's Complaint. Doc. 15. Plaintiff responded and Defendant replied. Docs. 21, 24.

On May 2, 2022, Plaintiff filed a document titled “Plaintiff’s Response to Defendant’s Reply in Further Support of its Partial Motion to Dismiss Plaintiff’s Complaint,” which the undersigned construes as a sur-reply (the “Surreply,” Doc. 26).

On May 26, 2022, Defendant filed the instant Motion to Strike. Doc. 27. Plaintiff has responded to the Motion to Strike, and Defendant has replied. Docs. 31, 32.

Local Civil Rule 7.1(e) provides that “[s]urreplies are neither anticipated nor allowed...but leave of Court may be sought to file a surreply when warranted.”

Here, Plaintiff did not seek leave to file the Surreply but contends that he “reasonably assumed that the Defendant had divided their motion to dismiss into a two-part document, each part of which the Plaintiff reasonably assumed he had equal legal right to reply.” Doc. 31 at 1.

Defendant’s briefing, however, follows the normal course for motions practice in this district and though Plaintiff is proceeding *pro se*, he is still required to follow the local rules. Under these circumstances, the undersigned concludes that the Motion to Strike should be allowed. See Clean Control Corp. v. Terry D. Simpson, No. 1:13cv31, 2013 WL 1789706, at \*1 (W.D.N.C. April 26, 2013); Johnson v. The Sunshine House, No. 3:11-cv-511-MOC-DCK, 2012 WL 5379053, at \*2 (W.D.N.C. Oct. 4, 2012); McClain v. Henderson County, No. 1:17-cv-205-MOC-DLH, United States District Court, Western District of North Carolina, Doc. 11 (granting motion to strike *pro se* plaintiff’s surreply filed in violation of Local Civil Rule 7.1(e)).

IT IS THEREFORE ORDERED that the Motion to Strike Plaintiff's Surreply (Doc. 27) is GRANTED, and Plaintiff's Response to Defendant's Reply in Further Support of its Partial Motion to Dismiss Plaintiff's Complaint (Doc. 26) is STRICKEN.

Signed: September 13, 2022



W. Carleton Metcalf  
United States Magistrate Judge

